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Elections to fill vacancies in subsidiary organs and other elections: election of fourteen members of the Human Rights Council

Letter dated 23 April 2010 from the Permanent Representative of Malaysia to the United Nations addressed to the President of the General Assembly

I wish to refer to my letter of 22 September 2009 informing you of the Government of Malaysia's intention to submit its candidature for the Human Rights Council for the period from 2010 to 2013, the election for which is expected to be held on 13 May 2010 in New York.

In this regard, and in accordance with General Assembly resolution 60/251, I have the honour to submit herewith a document containing the revised voluntary pledges and commitments of the Government of Malaysia (see annex).

I would be grateful if the present letter and its annex were circulated as a document of the General Assembly under agenda item 111 (h).

(*Signed*) Hamidon **Ali**
Ambassador
Permanent Representative

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Annex to the letter dated 23 April 2010 from the Permanent Representative of Malaysia to the United Nations addressed to the President of the General Assembly

Malaysia's pledges and voluntary commitments for its candidature to the Human Rights Council for the term 2010-2013

Why our candidacy should be supported

1. Malaysia is seeking to be a member of the Human Rights Council (HRC) for the 2010 to 2013 term. If elected, we will:

1.1. Engage constructively in the evolving modalities of work of the HRC to make it a strong, fair, effective, efficient and credible vehicle for the promotion and protection of human rights worldwide;

1.2. Support the work of the Office of the High Commissioner for Human Rights;

1.3. Continue to participate actively in the norm-setting work of the HRC;

1.4. Help foster a spirit of cooperation in the HRC, based on the principles of mutual respect and dialogue, free from acrimony and politicization;

1.5. Promote greater coherence between the work of the HRC with other United Nations agencies and actors in achieving internationally targets and goals; and

1.6. Actively support international action to advance the rights of vulnerable groups such as women, children and the disabled.

Malaysia remains committed to these pledges.

Our involvement/track record in the HRC

2. Malaysia was an active member of the Commission on Human Rights (CHR) for three terms, the last being in 2005 to 2006 before the Commission was dissolved. The former Deputy Prime Minister of Malaysia, Tun Musa Hitam, was elected Chairman of the CHR from 1995 to 1996. Thereafter, Malaysia was then elected to the newly established HRC for the term 2006 to 2009.

3. Throughout Malaysia's tenure, we have sought to promote a constructive and pragmatic, rather than a confrontational and ideological approach to human rights issues. We firmly believe that such an approach, based on dialogue, non-politicization and technical cooperation, affords the best way of realizing the full spectrum of human rights for all.

Our vision for the HRC

4. Malaysia believes that our membership to the HRC would contribute toward enriching the quality of dialogue, cooperation and action aimed at advancing the promotion and protection of human rights for all people, in all parts of the world.

5. On the whole, Malaysia believes that since its establishment, the HRC has contributed positively towards institutionalizing norms of cooperation and collaboration in global efforts aimed at tackling

human rights issues. If elected to the Council, Malaysia is committed to further enhance and strengthen those norms and values.

6. In Malaysia's experience as a developing country, the promotion and protection of human rights have been achieved *inter alia* through much emphasis on Economic, Social and Cultural (ESC) rights, including through the achievement of the Millennium Development Goals (MDGs). That said, with increased affluence and prosperity, the Government is increasingly sensitive of the need to balance its traditional emphasis on ESC rights with civil and political rights.

7. In that context, Malaysia is continuously monitoring and evaluating key indicators with a view to ensuring the promotion and protection of all human rights for its people.

8. Having undergone its first Universal Periodic Review (UPR) review in February 2009, Malaysia believes that the UPR mechanism is perhaps the most important innovation adopted in recent times by the UN human rights system. Despite certain technical difficulties, including resource and procedural constraints, the process effectively includes the participation of all stakeholders in reviewing states' human rights record and merits continued support from all delegations and stakeholders.

9. On our part, we remain committed to implementing the recommendations emanating from the UPR and would be in a position to share information concerning the status of implementation of those recommendations with interested partners in due course.

10. While divergence in positions on certain human rights issues between the developing and the developed world remain, Malaysia believes that since its establishment in 2006, the HRC has effectively dealt with a wide range of human rights challenges while upholding principles of impartiality, transparency and non-selectivity. Therefore, the work of the HRC must continue to be supported by all stakeholders.

11. As a developing country on a trajectory towards developed status, Malaysia is keenly aware of the need for capacity-building and technical assistance in the promotion and protection of human rights. In this regard, Malaysia believes that developed countries could positively contribute to such process through among others, information sharing and technical exchanges.

12. Like many delegations, Malaysia acknowledges that there is room for improvement in the HRC. As the review of the HRC mandated by General Assembly resolution 60/251 would be due by 2011, Malaysia believes that if elected to the HRC, it can play a constructive role in the review process including through consensus-building efforts, among others.

Our efforts at promoting and protecting human rights

National level

13. At the national level, Malaysia is actively seeking to promote and protect human rights through efforts in various fields.

Laws and legislations

14. Since independence in 1957, our efforts to promote and protect human rights have been reflected in our laws and regulations. These include:

14.1. **Federal Constitution of Malaysia** – provisions under Part II of the Constitution forms the basis for the promotion and protection of human rights, which includes Articles 5 to 13 further reinforce the rights of personal liberty; prohibition against slavery and forced labour; protection against retrospective criminal laws and repeated trials; equal protection under the law; freedom of movement; rights to speech, assembly and association; freedom of religion; rights in respect of education and rights to property.

14.2. **Human Rights Commission Act 1999** - sets out the powers and functions in carrying out the efforts of protecting and promoting the principles of human rights in Malaysia.

14.3. **Penal Code Act 574** - includes extensive provisions prohibiting buying or selling any person, using deceitful means to bring anyone into or out of the country, and wrongfully restraining (defined to include using threats, or holding a person's passport) any person with the intention that that person will be used for the purposes of prostitution. Punishment for these offenses includes a maximum 15-year prison term, caning, and a fine, to be determined at the discretion of the sentencing judge.

14.4. **Child Act 2001, Act 611** - safeguarding the welfare and interest of children which was promulgated based on the principles enumerated in the Convention on the Rights of the Child (CRC) which Malaysia acceded to in 1995. This Act includes provisions for care, protection and rehabilitation of a child without discrimination as to race, colour, sex, language, religion, social origin or physical, mental or emotional disabilities or any other status.

14.5. **Persons with Disabilities Act 2008** - provides for the registration, protection, rehabilitation, development and wellbeing of persons with disabilities, the establishment of the National Council for Persons with Disabilities, and for matters connected therewith.

14.6. **Anti-Trafficking in Persons Act 2007** - came into force on 28 February 2008 and provides, among others, the legal mechanism to criminalize human trafficking and providing care, protection and shelter for the victims. At the international level, Malaysia has signed the United Nations Convention against Transnational Organized Crime (UNTOC) in 2002 and ratified it in 2004. Malaysia is currently in the process of acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing UNTOC.

15. Laws that are archaic and no longer relevant may be repealed to ensure that the country's justice system keeps up with current demands. The vehicle for achieving this, namely the six-person, the Malaysia Law Reform Committee (MLRC) would look at the 703 principal Acts of Parliament to determine which were still relevant, and which needed to be reviewed or repealed.

16. It is envisaged that the process will take two years to complete. Further, the public needs to give their views on the laws which affect their lives that need immediate attention for review. In order to promote public participation, a website would be up soon to allow the public to post their views on the matter. In addition, four roadshows were already planned to include the people's participation in the nation's transformation process.

17. While some of Malaysia's laws had been revised over the years, this revision was not accomplished for certain factors, namely issues related to their continued relevance and public interest.

18. Members of the MLRC reaffirmed their view that their responsibilities are part of the nation's bigger task of making an intrinsic transformation in all respects and that the needs of people are first and foremost their agenda. This will be used as the yardstick as they interact with the public to elicit their views and thoughts on certain laws and elements of reform.

Realizing economic, social and cultural rights

19. Malaysia has achieved significant progress in realizing Economic, Social and Cultural Rights (ESCR) of its people. If elected to the HRC, Malaysia intends to pursue efforts aimed at further promoting and protecting ESCR including the right to development alongside the more established civil and political rights (CPR).

Right to education

- Malaysia recognizes the importance of education as a major tool for national development. As such, it has been given the biggest allocation in the national budget since Malaysia achieved its independence. With regard to the greater importance of education, training and lifelong learning, under the Ninth Malaysia Plan (9MP) (2006-2010), Malaysia has allocated a total of MYR40.3 billion (US$11.29 billion - about 21 per cent of the total annual budget) for expenditure on education and training development.

- A comprehensive guideline for education development which outlines the focus, main strategies and implementation plans to make national education relevant to the current and future needs of the country and society is currently implemented through the Education Development Master Plan (EDMP) 2006 – 2010. It further outlines Malaysia's actions for realizing the goal of eliminating imbalances by ensuring that fair and equal educational opportunities regardless of location, race, ability or ethnic background, and that no student drops out of the system due to poverty or lack of access to schools.

- Malaysia is in full compliance with its treaty obligation under the CRC, prescribing all children in Malaysia will not be denied access to education. Constant engagements by the Malaysian Government with various international organizations such as the United Nations Children's Fund (UNICEF) and the Office of the United Nations High Commissioner for Refugees (UNHCR), and civil societies, reflect the need in ensuring that children of illegal immigrants attend informal classes to be conducted by NGOs, such as, through community-based schooling.

- In his visit to Malaysia in 2007, the Special Rapporteur on the Right to Education acknowledged the role of the Government in implementing the right to education in Malaysia.

Right to health

- Enjoyment of the right to health is vital to all aspects of a person's life and well-being. The right to health includes access to adequate health care (medical and preventive), nutrition, sanitation, and to clean water and air. In Malaysia, policies and programmes are developed to provide health services to address health needs of all. Malaysia also recognizes and provides for the differences and specific health needs of all age groups from newborn to the elderly with high priority to women of reproductive age, children and persons with disabilities.

- Apart from providing general health services, Malaysia extends the AIDS prevention programmes to the indigenous groups to prevent the incidence and spread of HIV/AIDS among them. Provisions of medical and health services to indigenous groups located in Malaysia are provided through static facilities and mobile health teams and clinics which have increased to 80.0 per cent of coverage.

Cultural rights

- Cultural representation is significant in a multicultural country like Malaysia where the mode of representation is instrumental in determining the progress of integration. Racial unity and interaction has therefore formed a diverse and vibrant society that is exceptionally unique. The three major races not only retain their respective cultures and traditions but also maintain understanding and tolerance as well as share each other's cultural richness. This cultural unity in diversity has given birth to peaceful coexistence and is the main catalyst for Malaysia's political stability and growth.

- The political scenario in Malaysia reflects the involvement and participation of diverse ethnic and sub-ethnic groups. The incorporation of the various ethnic groups into the political system guarantees a voice for all. In addition, the various ethnic groups are given the opportunity to participate at every level of political and decision making process as well as administration of the country.

Poverty eradication

- Malaysia believes in the importance of poverty eradication. For the past three and a half decades, the poverty rates have declined dramatically. This is due to Malaysia's effort in introducing new dimensions to address poverty of the indigenous people and minorities in Sabah and Sarawak; the urban poor and people in remote areas. Malaysia hopes to eliminate hardcore poverty and to reduce general poverty to 2.8 per cent by 2010.

Right to adequate housing

- The right to shelter is aimed at providing adequate housing and improving the quality of life and well being of the entire population. Adequate housing is therefore, an imperative aspect of economic, social and cultural rights. As such, the Government places great emphasis in providing adequate, affordable, comfortable and quality housing for all Malaysians.

- In Malaysia, housing programmes are undertaken by both the public and private sectors. As a measure to provide sufficient quality and affordable housing for all citizens, especially for those in the lower income group, Malaysia under the 9MP, encourages the private sector to build more low- and low-medium-cost houses in their mixed-development projects while the public sector concentrates on building low-cost houses for squatters and the poor in urban and rural areas.

Rights of older persons

- As one of the first countries in the Asia Pacific region to have its own policy for older persons, Malaysia had in October 1995 enacted its National Policy for Older Persons to ensure the social status, dignity and well-being of older persons as members of the family, society and the nation are protected. The policy, among others, provides for the optimization of self potential, access to all opportunities and provision for care and protection.

- It has always been Malaysia's main concern in taking care of the well-being of the senior citizens. This has been undertaken by the introduction of measures to encourage family members to care for their elderly. An amount up to MYR5,000 (US$1,400) tax relief is provided to individuals for medical expenses and purchases of special equipment for their elderly parents.

- In light of the said policy and concerns over this matter, it is estimated that by 2035, 15 per cent of Malaysia's total population will be 60 years old and above. Therefore, the Government is carrying out a study on the policy and plan of action to address issues relating to an aging society and its impacts towards Malaysia's development.

Gender empowerment

20. In Malaysia, gender equity is measured by the Gender Empowerment Measure (GEM) in terms of opportunity. Amongst the main criteria considered in determining the GEM are women's representation in parliaments, women's share of positions classified as managerial and professional, women's participation in the active labour force and their share of the national income.

21. In the United Nations Development Programme's (UNDP) Human Development Report 2007/2008, Malaysia's women's labour force participation rate was recorded at 46,5 percent as compared to 57 percent for the male economic activity rate. Hence, there is only a slight difference between the labour force participation between men and women.

22. Malaysia has reported a significant increase in the women's participation in politics. In 2007/2008, 13.1 percent seats in Parliament held by women. This showed an improvement compared to 12.2 percent in 2005.

Racial harmony and religious tolerance

23. No country in the world has a perfect human rights record and lives in perfect peace and harmony. Recent events in Malaysia involving the desecration of places of worship, is an aberration in the country's history since independence.

24. Despite these problems, Malaysia will continuously uphold and promote the basic principles of human rights for all. It is pertinent to note that the present situation is the result of a court decision, in which the High Court had found that the Government had erred in its decision to ban the use of the word "Allah" for "God" by non-Muslims.

25. The fact that this situation arose from a court decision is a firm indication of the independence of the Malaysian judiciary, and as an indication that there is a need to balance human rights concerns with those of public order and safety, particularly in multi-ethnic and multi-religious societies.

26. It is pertinent to note that condemnation of these acts of desecration has come not only from the Government, but from leaders across the political spectrum, civil society organizations and the public at large. Indeed, in the wake of these incidents, members of Muslim NGOs had joined together with other NGOs to guard against the desecration of non-Muslim places of worship.

27. The arrests made so far show that these are isolated incidents and are not the result of systemic attempts to stabilize the country. Further, these incidents have reinforced the belief held by all Malaysians that no society can be complacent with regard to racial harmony and religious tolerance.

28. In April 2009, Malaysia welcomed the swearing in of its new Prime Minister. Taking into account the challenges faced as Malaysia seeks further development, the administration propounds the key concept of 'One Malaysia' which among others, entails mutual trust and respect as the main ingredients for national unity and places utmost emphasis on the interest of the people. This concept aims to give a clearer picture to the term 'unity in diversity' and takes a pluralistic and integrationist approach in steering the Government's vision for the country.

Other measures at the national level

29. The aforementioned efforts at the national level are also supplemented by the following:

29.1. The Human Rights Commission of Malaysia (SUHAKAM), regularly undertakes public inquiries into allegations of human rights infringements free from Government interference. Such activities on SUHAKAM's part are testimony to the Commission's aspiration to improve Malaysia's human rights situation at its national level. On the initiative of SUHAKAM, 9 September has been declared as the Malaysian Human Rights Day;

29.2. The Government continues to ensure that Malaysian practices are compatible with the provisions and principles of the Convention on the Rights of the Child (CRC), Committee on the Elimination of Discrimination against Women (CEDAW) and Convention on the Rights of Persons with Disabilities (CRPD) for issues such as dissolution of marriage, maintenance, custody, inheritance and determination of the religion of the child of a civil marriage during conflict resulting from one of the spouses converting to Islam;

29.3. As a signatory to the Convention on the Rights of Persons with Disabilities (CRPD), the Government is fully seized of its obligations to fulfill and implement policies with regard to Persons with Disabilities including the registration, protection, rehabilitation, development and well-being, through the Persons with Disabilities (PWDs) Act which came into force on 7 July 2008; and

29.4. Safeguarding the welfare and interest of children as per its Child Act 2001 which was promulgated based on the principles specified in the Convention on the Rights of the Child (CRC) which Malaysia acceded to in 1991.

Regional level

30. Malaysia has also been at the forefront of efforts to promote and protect human rights at the regional level, particularly within the context of the Association of South East Asian Nations (ASEAN). These efforts include:

30.1. Our continuous and significant role, as one of the five original members of the Association of the South East Asia Nations (ASEAN), to establish ASEAN as an intergovernmental organisation with a legal personality through the signing of the ASEAN Charter by the leaders in November 2007. Malaysia ratified the Charter on 20 February 2008. Most significantly, the Charter now provides for the establishment of an ASEAN human rights body, a positive milestone towards fulfilling ASEAN and its Member States' commitment to adhere to the principles of respect for fundamental freedoms and the promotion and protection of human rights. Currently, Malaysia is vigorously engaged with other ASEAN Member States and the relevant stakeholders, including various civil society organizations, in the formulation of the terms of reference for the operation of the ASEAN human rights body; and

30.2. Support for regional humanitarian assistance initiatives. In July 2005, Malaysia signed the ASEAN Agreement on Disaster Management and Emergency Response (AADMER) which provides a regional comprehensive framework to strengthen preventive, monitoring and mitigation measures in order to reduce disaster losses in the region.

International level

31. Malaysia has also contributed actively to the realization of human rights in all its manifestations worldwide.

Humanitarian action

32. Malaysia has been actively involved in providing humanitarian assistance and contributions, including through the United Nations Central Emergency Response Fund (CERF). The establishment of this humanitarian fund by the United Nations is to facilitate more timely and reliable humanitarian assistance to those affected by natural disasters and armed conflicts. Since its establishment, Malaysia has continuously contributed and pledged US$ 350,000 to the fund.

33. Malaysia has also provided humanitarian assistance bilaterally to countries such as Bangladesh, the People's Republic of China, the Republic of Indonesia, Maldives, Government of Myanmar, Peru, the Republic of Philippines and Sri Lanka and the Republic of Yemen. Most recently, Malaysia has provided US$ 100,000 for the victims of the earthquake in Haiti.

Malaysian involvement in United Nations peacekeeping efforts and peace support operations

34. Malaysia started its involvement in UN peacekeeping efforts and peace support operations in July 1960, through the first group of Malaysian troops to serve as peacekeepers with the UN Operations in Congo (UNOC). Thereupon, in carrying out the work of peacekeeping and peace support operations, Malaysia has given its utmost commitments to ensure the peace, security and all basic human rights are safeguarded in the affected areas of conflicts disputes.

35. In this regard, 1,106 Malaysian personnel are presently assigned to the various UN Peacekeeping Operations and Missions globally. This includes military and police troops, staff officers and military observers stationed at 8 field Missions and Operations in all parts of the world.

36. In addition, Malaysia is actively engaging with the international human rights system by:

36.1. Streamlining and better coordinating our responses, compliance and implementation of its legal obligations under the human rights treaties. Towards this end, various committees were established. For example, the Cabinet Committee on Gender Equality was officially set up in 2004, to portray the readiness and commitment of the government in raising the status of women. Through the leadership of the Ministry of Foreign Affairs, an Inter-Agency Coordinating Committee was established with the task to study and recommend for accession to the relevant international human rights treaties;

36.2. Participating as a party to the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery; the Convention on the Nationality of Married Women; and the Convention on the Prevention and Punishment of the Crime of Genocide, apart from the CRC and CEDAW;

36.3. Participating as an active member of the Commonwealth, especially in Annual Sessions of Asian-African Legal Consultative Organization (AALCO), Commonwealth Law Ministers Meeting as well as the Meeting of Senior Officials of Commonwealth Law Ministries, where various human rights issues are discussed; and

36.4. Participation of SUHAKAM in various international meetings involving national human rights commissions.

Our commitments and pledges:

- **Increasing support for the roles and functioning of SUHAKAM;**
- **Continuing efforts to raise human rights awareness among all segments of the population including law-enforcement officials, members of the judiciary, government officials and other stakeholders;**
- **Establishing a National Child Policy on Women as well as the National Plan Action for the Advancement of Women;**
- **Continuing fostering meaningful and productive engagement between the government machinery and civil society;**
- **Strengthening capacities for implementation and enforcement measures for human rights conventions which Malaysia is party to, alongside reconsidering of instruments which it has yet to accede to;**
- **Deepening and widening our cooperation with and support for the work of various UN actors and mechanisms involved in the promotion and protection of human rights such as the OHCHR, Special Procedures of the Human Rights Council, UNHCR, UNDP, UNFPA, UNIFEM, INSTRAW, UNICEF and UNEP including through, inter alia, voluntary financial contributions;**
- **Upholding the principles of dialogue and cooperation among all stakeholders in furthering the promotion and protection of human rights for all peoples, without distinction and discrimination of any kind;**
- **Furthering the UN development agenda, particularly in realizing the right to development, including support for ongoing efforts aimed at its operationalizatian and implementation;**

- **Sharing best practices, experiences and achievements in economic, social and cultural rights including advancing women's and children's rights, poverty eradication and education with interested partners;**

- **Engaging constructively with all our partners and stakeholders to ensure that the international community continues to create a supportive external environment towards the creation of economic stability, shared prosperity and equitable gains from globalization;**

- **Engaging continuously with all our partners and stakeholders to assess and monitor the implementation of recommendations from the UPR process; and**

- **Working continuously at the regional level with our partners under the ASEAN framework, in particular, with the newly established ASEAN Intergovernmental Commission on Human Rights (AICHR) in the promotion of human rights in the region.**